

## CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON PAGE TWO OF THE FORM.)

## I. (a) PLAINTIFFS

MOURA, CLARABELLE

## DEFENDANTS

AMERICAN WEST STEAMBOAT COMPANY L.L.C. d.b.a. MAJESTIC AMERICA LINE and DOES 1 to 100

(b) County of Residence of First Listed Plaintiff ALAMEDA  
(EXCEPT IN U.S. PLAINTIFF CASES)County of Residence of First Listed Defendant KING COUNTY  
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE LAND INVOLVED.

(c) Attorney's (Firm Name, Address, and Telephone Number)

Attorneys (If Known)

ILSE M. BUTTERFIELD, ESQ. SBN 128888  
1065 "A" Street, Suite 216  
Hayward, California 94541  
Tel: (510) 690-1485 Fax: (510) 690-1490

## II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff  
☐ 2 U.S. Government Defendant  
☐ 3 Federal Question (U.S. Government Not a Party)  
☒ 4 Diversity (Indicate Citizenship of Parties in Item III)

## III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- |   | PTF                                   | DEF                        |   | PTF                                   | DEF                        |
|---|---------------------------------------|----------------------------|---|---------------------------------------|----------------------------|
| Citizen of This State                   | <input checked="" type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business in This State     | <input type="checkbox"/> 4            | <input type="checkbox"/> 4 |
| Citizen of Another State                | <input type="checkbox"/> 2            | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business in Another State | <input checked="" type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3            | <input type="checkbox"/> 3 | Foreign Nation  | <input type="checkbox"/> 6            | <input type="checkbox"/> 6 |

## IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance	<input type="checkbox"/> 310 Airplane	<input type="checkbox"/> 610 Agriculture	<input type="checkbox"/> 422 Appeal 28 USC 158	<input type="checkbox"/> 400 State Reapportionment
<input type="checkbox"/> 120 Marine	<input type="checkbox"/> 315 Airplane Product Liability	<input type="checkbox"/> 620 Other Food & Drug	<input type="checkbox"/> 423 Withdrawal 28 USC 157	<input type="checkbox"/> 410 Antitrust
<input type="checkbox"/> 130 Miller Act	<input type="checkbox"/> 320 Assault, Libel & Slander	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881		<input type="checkbox"/> 430 Banks and Banking
<input type="checkbox"/> 140 Negotiable Instrument	<input type="checkbox"/> 330 Federal Employers' Liability	<input type="checkbox"/> 630 Liquor Laws	<b>PROPERTY RIGHTS</b>	<input type="checkbox"/> 450 Commerce
<input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment	<input type="checkbox"/> 340 Marine	<input type="checkbox"/> 640 R.R. & Truck	<input type="checkbox"/> 820 Copyrights	<input type="checkbox"/> 460 Deportation
<input type="checkbox"/> 151 Medicare Act	<input type="checkbox"/> 345 Marine Product Liability	<input type="checkbox"/> 650 Airline Regs.	<input type="checkbox"/> 830 Patent	<input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations
<input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans)	<input type="checkbox"/> 350 Motor Vehicle	<input type="checkbox"/> 660 Occupational Safety/Health	<input type="checkbox"/> 840 Trademark	<input type="checkbox"/> 480 Consumer Credit
<input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits	<input type="checkbox"/> 355 Motor Vehicle Product Liability	<input type="checkbox"/> 690 Other	<b>SOCIAL SECURITY</b>	<input type="checkbox"/> 490 Cable/Sat TV
<input type="checkbox"/> 160 Stockholders' Suits	<input type="checkbox"/> 360 Other Personal Injury	<b>LABOR</b>	<input type="checkbox"/> 861 HIA (1395ff)	<input type="checkbox"/> 510 Selective Service
<input type="checkbox"/> 190 Other Contract		<input type="checkbox"/> 710 Fair Labor Standards Act	<input type="checkbox"/> 862 Black Lung (923)	<input type="checkbox"/> 520 Securities/Commodities/Exchange
<input type="checkbox"/> 195 Contract Product Liability		<input type="checkbox"/> 720 Labor/Mgmt. Relations	<input type="checkbox"/> 863 DIWC/DIWW (405(g))	<input type="checkbox"/> 530 Securities/Commodities/Exchange
<input type="checkbox"/> 196 Franchise		<input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act	<input type="checkbox"/> 864 SSID Title XVI	<input type="checkbox"/> 540 Securities/Commodities/Exchange
		<input type="checkbox"/> 740 Railway Labor Act	<input type="checkbox"/> 865 RSI (405(g))	<input type="checkbox"/> 550 Securities/Commodities/Exchange
<b>REAL PROPERTY</b>	<b>CIVIL RIGHTS</b>	<input type="checkbox"/> 790 Other Labor Litigation	<b>FEDERAL TAX SUITS</b>	<input type="checkbox"/> 560 Securities/Commodities/Exchange
<input type="checkbox"/> 210 Land Condemnation	<input type="checkbox"/> 441 Voting	<input type="checkbox"/> 791 Empl Ret. Inc. Security Act	<input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant)	<input type="checkbox"/> 570 Securities/Commodities/Exchange
<input type="checkbox"/> 220 Foreclosure	<input type="checkbox"/> 442 Employment		<input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 580 Securities/Commodities/Exchange
<input type="checkbox"/> 230 Rent Lease & Ejectment	<input type="checkbox"/> 443 Housing/Accommodations	<b>IMMIGRATION</b>		<input type="checkbox"/> 590 Securities/Commodities/Exchange
<input type="checkbox"/> 240 Torts to Land	<input type="checkbox"/> 444 Welfare	<input type="checkbox"/> 462 Naturalization Application		<input type="checkbox"/> 600 Securities/Commodities/Exchange
<input type="checkbox"/> 245 Tort Product Liability	<input type="checkbox"/> 445 Amer. w/Disabilities - Employment	<input type="checkbox"/> 463 Habeas Corpus - Alien Detainee		<input type="checkbox"/> 610 Securities/Commodities/Exchange
<input type="checkbox"/> 290 All Other Real Property	<input type="checkbox"/> 446 Amer. w/Disabilities - Other	<input type="checkbox"/> 465 Other Immigration Actions		<input type="checkbox"/> 620 Securities/Commodities/Exchange
	<input type="checkbox"/> 440 Other Civil Rights			<input type="checkbox"/> 630 Securities/Commodities/Exchange
				<input type="checkbox"/> 640 Securities/Commodities/Exchange
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				<input type="checkbox"/> 940 Securities/Commodities/Exchange
				<input type="checkbox"/> 950 Securities/Commodities/Exchange

## V. ORIGIN

(Place an "X" in One Box Only)

- ☒ 1 Original Proceeding  
☐ 2 Removed from State Court  
☐ 3 Remanded from Appellate Court  
☐ 4 Reinstated or Reopened  
☐ 5 Transferred from another district (specify)  
☐ 6 Multidistrict Litigation  
☐ 7 Appeal to District Judge from Magistrate Judgment

## VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):  
28 U.S.C. Sec. 1332

Brief description of cause:

Personal injuries resulting from fall caused by Defendant's negligence while exiting Defendant's river boat.

## VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23

DEMAND \$ 500,000.00

CHECK YES only if demanded in complaint:  
JURY DEMAND: ☒ Yes ☐ No

## VIII. RELATED CASE(S) IF ANY

PLEASE REFER TO CIVIL L.R. 3-12 CONCERNING REQUIREMENT TO FILE "NOTICE OF RELATED CASE".

## IX. DIVISIONAL ASSIGNMENT (CIVIL L.R. 3-2)

(PLACE AN "X" IN ONE BOX ONLY)

☒ SAN FRANCISCO/OAKLAND☐ SAN JOSE

DATE 8/22/08

SIGNATURE OF ATTORNEY OR PARTY

ILSE M. BUTTERFIELD

**INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS 44****Authority For Civil Cover Sheet**

The JS 44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

**I. (a) Plaintiffs-Defendants.** Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.

(b) County of Residence. For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved.)

(c) Attorneys. Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".

**II. Jurisdiction.** The basis of jurisdiction is set forth under Rule 8(a), F.R.C.P., which requires that jurisdictions be shown in pleadings. Place an "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.

United States plaintiff. (1) Jurisdiction based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here.

United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box.

Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.

Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; federal question actions take precedence over diversity cases.)

**III. Residence (citizenship) of Principal Parties.** This section of the JS 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.

**IV. Nature of Suit.** Place an "X" in the appropriate box. If the nature of suit cannot be determined, be sure the cause of action, in Section VI below, is sufficient to enable the deputy clerk or the statistical clerks in the Administrative Office to determine the nature of suit. If the cause fits more than one nature of suit, select the most definitive.

**V. Origin.** Place an "X" in one of the seven boxes.

Original Proceedings. (1) Cases which originate in the United States district courts.

Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441. When the petition for removal is granted, check this box.

Remanded from Appellate Court. (3) Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.

Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.

Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.

Multidistrict Litigation. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407. When this box is checked, do not check (5) above.

Appeal to District Judge from Magistrate Judgment. (7) Check this box for an appeal from a magistrate judge's decision.

**VI. Cause of Action.** Report the civil statute directly related to the cause of action and give a brief description of the cause. **Do not cite jurisdictional statutes unless diversity.** Example: U.S. Civil Statute: 47 USC 553

Brief Description: Unauthorized reception of cable service

**VII. Requested in Complaint.** Class Action. Place an "X" in this box if you are filing a class action under Rule 23, F.R.Cv.P.

Demand. In this space enter the dollar amount (in thousands of dollars) being demanded or indicate other demand such as a preliminary injunction.

Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.

**VIII. Related Cases.** This section of the JS 44 is used to reference related pending cases if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases.

**Date and Attorney Signature.** Date and sign the civil cover sheet.

E-filing

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Attorney for Plaintiff, Clarabelle Moura

**FILED**  
AUG 22 2008  
RICHARD W. WIEKING  
CLERK, U.S. DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
OAKLAND

Full  
paid  
ISS.

(3)

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

MOURA, CLARABELLE

Plaintiff,

v.

AMERICAN WEST STEAMBOAT  
COMPANY L.L.C. d.b.a. MAJESTIC  
AMERICA LINE, and DOES 1 to 100.

Defendants.

**C08-04025**

CIVIL ACTION NO.

ADR  
EDL

CIVIL COMPLAINT FOR GENERAL NEGLIGENCE, PERSONAL INJURY AND  
DEMAND FOR JURY TRIAL

Plaintiff, Clarabelle Moura, alleges:

1. Plaintiff is and was at all times mentioned a citizen of the State of California and a resident of Alameda County.

(Jurisdictional Allegations)

2. Defendant American West Steamboat Company L.L.C. d.b.a. Majestic America Line is and at all times mention herein a corporation incorporated under the laws of the state of Oregon and having its principle place of business in the State of Washington.

GO 44 SEC. N  
NOTICE OF ASSIGNMENT  
TO MAGISTRATE JUDGE SENT



1 The jurisdiction of this Court over the subject matter of this action is predicated  
2 on 28 United States Code Section 1332. The amount in controversy exceeds  
3 \$75,000.00, exclusive of interests and costs.

4 3. Plaintiff is unaware of the true names and capacities of the defendants  
5 sued herein as DOES 1 to 100 and therefore sues said defendants by such fictitious  
6 names. Plaintiff is informed and believes and thereon alleges that each fictitiously  
7 named defendant is in some manner responsible for the matters alleged herein and the  
8 injuries and damages occasioned thereby. Plaintiff will amend the complaint to insert  
9 the true names and capacities of the fictitiously named defendants once the same has  
10 been ascertained.

11 (Venue Allegations)

12 4. Plaintiff resides in the Ninth District, in the County of Alameda, State of  
13 California.

14 (Charging Allegations)

15 5. At this time and all times mentioned herein Defendants and each of them  
16 were the owner, manager and operator of the river boat identified as "Empress of the  
17 North".

18 6. On March 24, 2007 Plaintiff was a paying customer on the river boat  
19 identified as "Empress of the North". On this date Plaintiff was exiting the "Empress of  
20 the North" seated in a wheel chair and assisted by Defendants' agent DOES 1 to 100  
21 when Defendants agent DOES 1 to 100 lost control of Plaintiff's wheel chair causing  
22 Plaintiff in the wheel chair to roll down the ramp exiting the river boat out of control and  
23 being thrown from the wheel chair landing on the cement landing below.

24 7. Plaintiff is informed and believes and thereon alleges that Defendants'  
25 agent DOES 1 to 100 was not wearing proper non-slip footwear for the river boat and as  
26 a result lost his footing while exiting the river boat causing him to let go of the wheel  
27 chair in which Plaintiff was seated and sending the wheel chair out of control and finally  
28 coming to rest on the cement landing below.

1           8. Defendants knew or should of know that Defendants' agent DOES 1 to  
2 100 did not have proper non-slip foot wear for the surface of the river boat. Defendants  
3 knew or should of known that not wearing proper non-slip foot wear causes a  
4 substantial risk of harm of slipping on the surface of the river boat. Defendants knew or  
5 should of known that providing Plaintiff with the help of an agent not wearing the proper  
6 non-slip foot wear when exiting the river boat caused a dangerous risk of harm to  
7 Plaintiff.

8           9. Defendants, and each of them, have a duty to provide Plaintiff with safe  
9 passage embarking and disembarking the river boat "Empress of the North" and on  
10 March 24, 2007.

11           10. On March 24, 2007 Defendants and each of them breached their duty to  
12 provide safe passage from the river boat "Empress of the North" to land.

13           11. As a result of Defendants and each of them failure to provide safe  
14 passage from the river boat "Empress of the North" to land Plaintiff has suffered  
15 physical injuries, lost wages or income, suffered physical and mental pain and incurred  
16 medical expenses in the amount of \$31, 150.68 (thirty one thousand one hundred fifty  
17 dollars and thirty-eight cents).

18           WHEREFORE Plaintiff prays for judgment against Defendant American West  
19 Steamboat Company L.L.C. d.b.a. Majestic America Line and DOES 1 to 100 as  
20 follows:

21           1. For general damages resulting from physical and mental pain in the  
22 amount of \$500,000.00;

23           2. For special damages in the amount of \$31,150.68;

24           3. For compensatory damages according to proof

25           5. For reasonably attorney's fees;

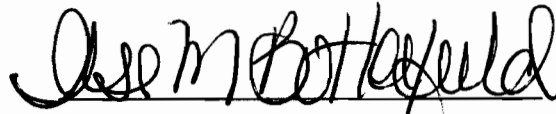
26           6. For costs of suit herein incurred; and

27 ///

28 ///

7. For such other relief as the court deems just.

Dated: 8/20/08



Ilse M. Butterfield, Esq.  
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Tel: (510) 690-1485

**DEMAND FOR JURY TRIAL**

Plaintiff hereby demands a jury trial as provided by Rule 38(a) of the Federal Rules of Civil Procedure.



ILSE M. BUTTERFIELD, ESQ.  
Attorney for Plaintiff Clarabelle Moura